

IN THE DISTRICT COURT OF THE
UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

2007 MAR 12 A 9:42

CHRISTOPHER McCULLOUGH
#174909

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

CASE NO. 3:07-CV-26-
HE

PETITIONER *

VS.
DANIEL JONES, WARDEN *

RESPONDENT, *

RESPONSE TO MAGISTRATE JUDGE ORDER
COMES NOW THE PETITIONER HIS ANSWER
IN COMPLIANCE TO SAID ORDER, HEREBY
GIVES LEGITIMATE REASONS FOR HIS
CONTINUATION OF PURSUING HABEAS CORPUS
REVIEW IN FEDERAL COURT.

THE PETITIONER CONTENDS THAT THE ISSUES
ARE ADEQUATE ENOUGH TO DESERVE
ENCOURAGEMENT TO PROCEED FURTHER.

PETITIONER STANDS TO CHALLENGE SUCH DECISION
BECAUSE OF THE TRIAL COURT NEGLECTING TO
AWARE PETITIONER OF SUCH DISMISSAL OF HIS
POST-CONVICTION RULE 32 ON WHICH ANY FINAL
JUDGMENT BY TRIAL JUDGE SHOULD BE MADE
BY WAY OF WRITTEN ORDER AND THE CIRCUIT CLERK
SHALL ISSUE SAID ORDER TO ALL PARTIES
INVOLVED IN THE CASE INCLUDING PETITIONER
FAILURE TO DISCLOSE SUCH VALUABLE INFORMATION
IS AN DIRECT VIOLATION OF MY CONSTITUTIONAL
RIGHTS UP UNDER THE 5TH 14TH AMENDMENTS WHICH
GUARANTEES ME DUE PROCESS OF LAW AND I CANNOT
BE DEPRIVED OF SUCH RIGHT.
BY FAILING TO AWARE PETITIONER OF SAID
ORDER CAUSED PETITIONER TO BE PREJUDICED
BY NOT ALLOWING ME THE RIGHT TO AN
DIRECT APPEAL OF THE TRIAL COURT'S DECISION
TO THE COURT OF CRIMINAL APPEALS.
I COULD HAVE DISPUTED ANY AND ALL ISSUES
DISMISSED BY TRIAL COURT OF THE POST-CONVICTION
RULE 32.

TRIAL COURT WAS REQUIRED TO SPECIFY
REASON OR REASONS FOR ITS DISMISSAL AS
TO EACH CLAIM RAISED IN PETITION FOR
POST-CONVICTION REVIEW, WHETHER BASED
ON PROCEDURE OR ON THE MERITS, RULES OF
CRIMINAL PROCEDURE 32.
HARPER V. STATE, 696 So.2d 949 (ALA. CRIM.
APR. 1997)

ACCORDINGLY, BECAUSE THE APPELLANT PRESENTED AN ALLEGATION THAT, IF TRUE, ENTITLES HIM TO REVERE, THE TRIAL COURT ERRED IN SUMMARILY DISMISSING THIS CLAIM. EX PARTE BOATWRIGHT, 471 So.2D 1257 (ALA. 1985).

SEE ALSO EX PARTE DUNN, 514 So.2D 1300 (ALA. 1989).

I FURTHER CONTEND THAT THE STATE COURTS MADE UNREASONABLE DECISIONS DEALING WITH THESE CHARGES ON WHICH WERE CLEARLY DIVERGENT FROM THE EVIDENCE AND THE LAW AND AGAINST THE GREAT WEIGHT AND PREPONDERANCE OF THE EVIDENCE.

I FURTHER CONTEND THAT NO REASONABLE JURY WOULD HAVE CONVICTED ME OF THESE OFFENSES WHO CONTAINS THE PROPER KNOWLEDGE OF LAW CONTAINING SUCH OFFENSES.

THE RELIABLE EVIDENCE SHOWS THAT CO-DEFENDANT TESTIMONY AND STATEMENT CONTRADICTED EVERY ASPECT OF THE EVENT THAT TOOK PLACE.

NO ENTRY WAS PROVEN BY THE STATE OF CHRS MCKINOUGH ENTERING THIS RESIDENCE. STATE FAILED TO PRODUCE EVIDENCE OF NO

FINGER PRINTS ON THESE WEAPONS OR HOUSE ON WHICH I WAS ACCUSED OF RAMSHACKING THE WHOLE HOUSE BARE-HANDED.

ALL THE EVIDENCE ACCUMULATED IN THIS TRIAL IS WHAT BELLYNORRES HAD DONE ON WHICH SHOWS THE JURORS INCOMPETENCE ON CORROBORATE EVIDENCE ISSUES.

ALSO I STAND TO BRING ABOUT ANOTHER
PROCEDURAL DEFAULT BY ESTABLISHING THE FACT
OF INEFFECTIVE ASSISTANCE OF COUNSEL UP
UNDER THE 6TH AMENDMENT
THIS CAN BE PROPERLY ESTABLISHED BECAUSE
AT NO TIME DID ATTORNEY STEVE MORRIS DISPUTE
THE CORROBORATE EVIDENCE OF THIS TRIAL
FOR HIM NOT TO DISPUTE THE MOST IMPORTANT
ISSUE OF THIS TRIAL SHOWS THAT HIS
STRATEGY WAS WEAK AND UNREASONABLE.
AND IT'S NECESSARY FOR ME TO STATE THAT
NO COMPETENT ATTORNEY WOULD HAVE MADE
SUCH A CARELESS MISTAKE
THIS SHOWS THAT HIS DEFICIENCY ON HIS
PERFORMANCE CAUSE ME TO NOT TO BE ABLE
TO DISPUTE THE CORROBORATE EVIDENCE ON
APPEAL TO THE COURT OF CRIMINAL APPEALS
THIS IS AN COMPLETE RESULT OF PREJUDICE
BECAUSE OF HIS DEFICIENT PERFORMANCE
AT THIS TRIAL
HIS PERFORMANCE TELL BELOW AN OBJECTIVE
STANDARD OF REASONABLENESS AND THIS IS A
MATERIAL DISTINGUISHABLE FACT.

RESPECT FULLY

Signature, Christopher C. McCullough
Christopher C. McCullough

PRO'SE

CERTIFICATE OF SERVICE

I HEREBY DO CERTIFY THAT ON THIS 5TH DAY
OF MARCH, 2007 I HAVE SENT AN EXACT
SAME COPY OF THE FOREGOING TO: TROY KING

ATTORNEY GENERAL
ALABAMA STATE HOUSE
11 SOUTH UNION

MONTGOMERY, AL 36130-0152

BY PLACING THE SAME IN THE
UNITED STATES POSTAL SERVICE,
POSTAGE PAID BY PLACING
THE SAME IN THE MAIL IN AN
UNITED STATES POST OFFICE.

RESPECTFULLY,

Signature, Christopher C. McCullough
Christopher C. McCullough
PRO'SE

ADDRESS OF COUNSEL

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03/12/07

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